

Minutes Formal City Council Meeting October 25, 2007

Minutes of the Formal Council Meeting of Thursday, October 25, 2007, held at 7:30 p.m. in the Harry E. Mitchell Government Center, Municipal Building, City Council Chambers, 31 E. Fifth Street, Tempe, Arizona.

COUNCIL PRESENT:

Mayor Hugh Hallman
Vice Mayor Hut Hutson
Councilmember P Ben Arredondo
Councilmember Barbara J. Carter
Councilmember Shana Ellis
Councilmember Mark W. Mitchell
Councilmember Onnie Shekerjian

Mayor Hallman called the meeting to order at 7:35 p.m.

1. Vice Mayor Hutson gave the invocation.
2. Mayor Hallman led the audience in the **Pledge of Allegiance**.
3. **MINUTES**

A. Approval of Council Meeting Minutes

Motion by Councilmember Ellis to approve the following **COUNCIL MEETING MINUTES**.
Second by Vice Mayor Hutson. Motion passed unanimously on a voice vote.

1. Council's Executive Session – September 25 & October 4, 2007
2. Council's Issue Review Session – October 4, 2007 [20071025clrkck02.pdf](#)
3. Council's Formal Meeting – October 4, 2007 [20071025clrkck01.pdf](#)
4. Council's Tourism & Amateur Sports Committee – September 12, 2007
[20071025tasc01.pdf](#)
5. Council's Transportation & Affordable Housing Committee – September 25, 2007
[20071025tahc01.pdf](#)

B. Acceptance of Board & Commission Meeting Minutes

Motion by Councilmember Ellis to accept the following **COMMITTEE & BOARD MEETING MINUTES**. Second by Councilmember Carter. Motion passed unanimously on a voice vote.

6. Apache Boulevard Project Area Committee – September 10, 2007
[20071025apac01.pdf](#)

7. Committee for Youth, Families and Community – September 17, 2007
[20071025cyfc01.pdf](#)
8. Community Special Events Task Force – September 25 & October 9, 2007
[20071025setf01.pdf](#) [20071025setf02.pdf](#)
9. Development Review Commission – August 14 & 28, and September 25, 2007
[20071025drc01.pdf](#) [20071025drc02.pdf](#) [20071025drc03.pdf](#)
10. Hearing Officer – September 4 & 18, 2007 [20071025ho01.pdf](#) [20071025ho02.pdf](#)
11. Historic Preservation Commission – August 9, 2007 [20071025hpc01.pdf](#)
12. Historical Museum Advisory Board – September 6, 2007 [20071025csjc02.pdf](#)
13. Mayor's Youth Advisory Commission – September 25, 2007 [20071025myac01.pdf](#)
14. Municipal Arts Commission – August 8, 2007 [20071025mac01.pdf](#)
15. Neighborhood Advisory Commission – September 5, 2007 [20071025nac01.pdf](#)
16. Rio Salado Advisory Commission – August 28, 2007 [20071025rsac01.pdf](#)
17. Tempe Police Public Safety Personnel Retirement Board – September 6, 2007

4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Announcements

Mayor Hallman asked for Council consensus to bifurcate the Scheduled Public Appearances and Unscheduled Public Appearances and allow those who wish to come forward earlier in the meeting to do so. It was agreed. Those public appearances will be allowed after the Manager's Announcements.

- Mayor Hallman announced that the American Council of Engineering Companies (ACEC) awarded an Engineering Excellence partner award for the Tempe Town Lake Bridge Project as the Grand Award winner on October 13, 2007. He presented the award to the Light Rail Construction Management Team composed of Jyme Sue McLaren, Gregg Kent, Bob Gardom, and Joel Mona.

B. Manager's Announcements – None.

UNSCHEDULED PUBLIC APPEARANCE

Mark Yslas, Principal of Tempe High School, Tempe. Mr. Yslas expressed his sincere appreciation and heartfelt thanks to the City of Tempe for helping make the centennial celebration a grand success. Countless people from the City of Tempe helped with a weeklong celebration where thousands of people came back home to Tempe to celebrate Tempe High School and the community of Tempe. It was an outstanding week. This event could not have happened without the cooperation and enthusiasm of the City of Tempe.

LuAnn Kenner, Centennial Celebration Coordinator, Tempe High School, echoed Mr. Ystas' remarks. She added special thanks to Councilmembers Arredondo and Ellis for serving on the Centennial Committee. It involved over a week of planning. She thanked everyone for helping to make it such a wonderful experience.

Councilmember Arredondo added that by comparing Tempe High School to other Tempe schools:

Congressmen:	Tempe High 1, other schools 0
City Councilmembers:	Tempe High 2, other schools 1

City Judges: Tempe High 1, other schools 0
Fire and Police Chiefs: Tempe High 2, other schools 0

SCHEDULED PUBLIC APPEARANCE

Rachel Hill, Tempe, re: recycling. She has been working with fellow residents and local businesses regarding recycling and its place in Tempe. She has also met with officials from waste management, spoken to property managers and recycling coordinators, attended two Mesa Community College (MCC) Environmental Club meetings, questioned her co-workers and goes to great lengths to bring recycling to her work complex and her apartment complex. She has researched the subject to the best of her ability and offered the results of her efforts. Tempe has a convenient and affordable recycling system in place and businesses and residents should be encouraged to take advantage of it. Her apartment complex will receive a blue bin next week. Through combined efforts, her work complex will be receiving recycling bins for all the businesses to share. She wants to involve more ASU students in this community project. She is very active with MCC staff and students because MCC has made a commitment to a greener campus and gone to great lengths to provide recycling to students. She has been in contact with the Boys and Girls Club of Tempe and has discussed piloting programs to learn about responsible recycling. She has lived in other states, has traveled overseas, and has been introduced to many different methods of waste management. It seems, however, in every recycling success story, there must be a commitment from cities and state officials, as well a budget increase and more staff. The first recycling mill was established by families in 1690 in Pennsylvania. In 1897, the first recycling center was established in New York City. San Francisco met its goal of having 25 percent of commercial and residential waste recycled in 1986. She wonders how the City of Tempe has prepared to deal with the increasing trash problem as population increases. Will landfill overflow affect Tempe businesses and residents? Will it affect the economy? Is there a different approach the City is taking so that less trash will be generated in this community? She is trying to help a cause that she believes will enhance her life and is trying to be the change she wants to see in the world. She asked Council to answer her questions.

Mayor Hallman stated that Council has formed an environment subcommittee being chaired by Councilmember Ellis. He would encourage Ms. Hill to begin a dialogue with Councilmember Ellis' committee because that committee will be tasked with these kinds of issues, and he was sure Councilmember Ellis would appreciate Ms. Hill's support. That would be a great start. Many reports have been done over the years by City staff with respect to the recycling program, what it costs, and how productive it is, etc. The City has experimented with the green waste program, although it didn't work out quite so well. He asked her to also talk to John Osgood who would provide current materials.

Councilmember Shekerjian added that it is inspiring to see citizens take on causes with passion. She chairs the Education, Technology and Economic Development Committee, and the committee has looked at some recycling programs for batteries. She suggested Ms. Hill talk to Shelley Hearn to get the contact information for the ASU student association representative. That representative could help connect to some of the ASU resources.

Councilmember Arredondo thanked Ms. Hill for her efforts.

5. AGENDA

All items in these minutes identified with an asterisk (*) are **public hearing items**. All items listed on the agenda are approved with one council action. Items scheduled for Introduction/First Public Hearing will be heard but not adopted at this meeting. Items scheduled for Second Public Hearing/Final Adoption will be voted upon at this meeting.

Mayor Hallman announced consideration of the **AGENDA**.

Motion by Councilmember Shekerjian to approve the Agenda (Items #19, #31, #34, #40 and #48 were removed for separate consideration). Second by Councilmember Carter. Motion passed on a roll call vote 7-0.

A. Miscellaneous Items

18. Approved **Contract #2007-186**, a Men's Senior Baseball League (MSBL) World Series Letter of Agreement for the use of Tempe Diablo Stadium for annual baseball tournament activities.

COMMENTS: MSBL pays approximately \$28,000 annual rental fees to the City of Tempe and 100% of stadium expenses.

DOCUMENT NAME: [20071025prkb01.pdf](#)

SPORTS

ADMINISTRATION/POLICIES (0105-01-07)

19. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION**

Approved **Contract #2004-252B**, the Second Amendment to the Lease Agreement between the City of Tempe and Angels Baseball, LP for Tempe Diablo Stadium.

Vice Mayor Hutson asked for clarification from the City Attorney that if Council approves this item, does the reader board stay there forever, or does the reader board come down or does the property change back to Tempe once the Angels contract expires.

City Attorney Andrew Ching responded that this agreement is tied to the underlying lease and would only extend to the extent of the term of the lease. At the point of termination of the lease with the Angels, it would be subject to renegotiation at that time.

Motion by Vice Mayor Hutson for approval of Item #19. Second by Councilmember Arredondo. Motion passed on a roll call vote, 7-0.

DOCUMENT NAME: [20071025prmr01.pdf](#)
CALIFORNIA ANGELS (0903-15)

DIABLO STADIUM –

20. Approved **Contract #2003-67E**, the 5th Amendment (4th Extension) of Agreement C2003-67 between Rock 'N' Roll Arizona Inc. (RNR), the Tempe Convention and Visitors Bureau (TCVB) and the City of Tempe (Tempe) for Tempe to host the finish of the half and full RNR marathon on January 13, 2008.

COMMENTS: The net fiscal impact to Tempe is approximately \$150,000 (cash and in-kind City services).

DOCUMENT NAME: [20071025prtd03.pdf](#)
ADMINISTRATION/POLICIES (0105-01-07)

SPORTS

21. Approved **Contract #2000-254A**, the Insight Fiesta Bowl Block Party Agreement combining the Fiesta Bowl New Year's Eve Block Party Agreement and The Insight Bowl Participation Agreement for the next seven consecutive years through 12/31/2013.

DOCUMENT NAME: [20071025prtd02.pdf](#)
FOUNDATION (0105-01-12)

VALLEY OF THE SUN

22. Approved changing Section 8.F.5 of the Rio Salado Management Plan regarding the insurance requirement for skilled boating events as permitted by the City on Tempe Town Lake.

COMMENTS: To change the insurance requirements for skilled boating events on Tempe Town Lake from \$5M to \$2M from the sport's National Governing Body.
DOCUMENT NAME: [20071025prkb02.pdf](#) **RIO SALADO MASTER PLAN (0112-07-03)**

23. Approved **with condition** a Condominium Plat for RAINTREE VILLAS – AMENDED at 1424 South Jentilly Lane.

COMMENTS: (PL060605) (Elizabeth Ross/Jentilly 24 LLC, applicant/property owner) located at 1424 South Jentilly Lane, in the R-4 Zoning District, including the following request:

SBD07040 – Amended Condominium Plat for 24 units on 1 lot.

The following condition of approval was approved:

1. The Condominium Plat shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Development Services Department **on or before October 23, 2008**. Failure to record the plan within one year of Council approval shall make the plan null and void.

DOCUMENT NAME: [20071025dsrl01.pdf](#)
(0406)

PLANNED DEVELOPMENT

24. Approved **with conditions** a Subdivision Plat for CVS PHARMACY STORE NUMBER 9205 at 802 South Mill Avenue.

COMMENTS: (PL060561) (Diana Rinck, Armstrong Development Properties, Inc., property owner; Steve Bowser, Metroland Consultants L.L.C., applicant) for a Final Subdivision Plat, located at 802 South Mill Avenue, in the CC, City Center District, including the following:

SBD07038 – Final Subdivision Plat to unify the five existing parcels into one parcel on 0.9377 net acres.

The following conditions were approved:

1. The Public Works Department shall approve all roadway, alley, and utility easement dedications, driveways, storm water retention, and street drainage plans, water and sewer construction

drawings, refuse pickup, and off-site improvements.

- a. Off-site improvements to bring roadways to current standards include:
 - (1) Water lines and fire hydrants
 - (2) Sewer lines
 - (3) Storm drains
 - (4) Roadway improvements including streetlights, curb, gutter, bikepath, sidewalk, bus shelter, and related amenities.
 - b. Fees to be paid with the development of this project include:
 - (1) Water and sewer development fees,
 - (2) Water and/or sewer participation charges,
 - (3) Inspection and testing fees.
 - c. All applicable off-site plans shall be approved prior to recordation of Subdivision Plat.
 - d. Public improvements must be installed prior to the issuance of any occupancy permits. Any phasing shall be approved by the Public Works Department.
 - e. All new on-site and adjacent off-site utility lines (other than the existing transmission lines) shall be placed underground prior to certificate of occupancy for this development in accordance with the Code of the City of Tempe – Section 25.
2. Place the Subdivision Plat for CVS Pharmacy Store Number 9205 into proper engineering format with appropriate signature blanks. Record the Subdivision Plat with the Maricopa County Recorder's Office through the City of Tempe's Development Services Department on or before one year from date of City Council approval. Failure to record the plan by **October 25, 2008**, shall make the Subdivision Plat null and void. If work is commenced prior to this time, a certificate of occupancy will not be issued until this condition is fulfilled.

DOCUMENT NAME: [20071025dskko02.pdf](#) **PLANNED DEVELOPMENT**
(0406)

- *25. Held a public hearing and recommended the approval of a Series 12 Restaurant Liquor License for Kabuki Restaurants, Inc., dba Kabuki Japanese Restaurant, 2000 East Rio Salado Parkway, #375.

COMMENTS: Kevin Kramber, Agent

DOCUMENT NAME: [20071025LIQ1.pdf](#) **LIQ LIC (0210-02)**

- *26. Held a public hearing and recommended the approval of a Series 12 Restaurant Liquor License for Voodoo Daddy's, LLC, dba Voodoo Daddy's Magic Kitchen, 1706 East Warner Road, #398.

COMMENTS: Scott Slavin, Agent

DOCUMENT NAME: [20071025LIQ2.pdf](#) **LIQ LIC (0210-02)**

- *27. Held a public hearing and recommended the approval of a Series 10 Beer and Wine Store Liquor License for Fred's Flowers, 1860 East Warner Road, #108.

COMMENTS: Renee Potte, Agent

DOCUMENT NAME: [20071025LIQ3.pdf](#) **LIQ LIC (0210-02)**

- *28. Held a public hearing and recommended the approval of a Series 12 Restaurant Liquor License for Keg Restaurants Arizona, Inc., dba The Keg Steakhouse & Bar, 23 South McClintock Drive.

COMMENTS: David Campbell, Agent
DOCUMENT NAME: [20071025LIQ5.pdf](#) LIQ LIC (0210-02)

- *29. Held a public hearing and recommended the approval of a Series 12 Restaurant Liquor License for Emre, Inc., dba Med Fresh Grill, 414 South Mill Avenue, #117.

COMMENTS: Edip San, Agent
DOCUMENT NAME: [20071025LIQ7.pdf](#) LIQ LIC (0210-02)

- *30. Held a public hearing and recommended the approval of a Series 10 Beer and Wine Store Liquor License for Holtzman Enterprises, Inc., dba 7-Eleven 32265E, 485 West Warner Road.

COMMENTS: Howard T. Holtzman, Agent
DOCUMENT NAME: [20071025LIQ10.pdf](#) LIQ LIC (0210-02)

- *31. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**
Held a public hearing and recommended the **denial** of a Series 12 Restaurant Liquor License for The Haunted Castle, 6463 South Rural Road.

COMMENTS: Kurt Havelock, Agent
DOCUMENT NAME: [20071025LIQ9.pdf](#) LIQ LIC (0210-02)

PUBLIC HEARING

Bill Butler, Tempe. He was asked by a neighbor to bring a copy of a "blog" forward. He cautioned Council that the date is wrong, the address is wrong, the name is wrong. The only thing correct is the name of the bar, which is "The Haunted Castle." If this is the same Haunted Castle as the one referred to in the "blog" in March, then maybe Council should take a second look at inviting this group to open a business in a nice, quiet neighborhood at Rural and Guadalupe. It is evidently a hard rock, loud noise venue that would be put into that neighborhood.

Councilmember Arredondo asked Kay Savard, Tax and License Coordinator, to come forward. He stated that he thought a "haunted house" during Halloween was for kids.

Kay Savard responded that the name of the establishment is "The Haunted House" and it was formerly "Derby Bar & Grill." The name has been changed.

Councilmember Arredondo asked for clarification that it was only to be open for twenty days.

Ms. Savard clarified that it was a full time restaurant.

Councilmember Arredondo clarified that this is only a name and not something that is coming in for twenty days and then leaving.

Ms. Savard responded that they are simply changing the name of an existing restaurant.

Mayor Hallman asked for the restrictions on a restaurant liquor license.

Ms. Savard stated that there must be a minimum of 40% food sales at that location.

Mayor Hallman asked if we know if this location has applied for a permit for loud music or other performances.

Ms. Savard stated that she didn't know; that would come through the Development Services Department.

Chris Anaradian responded that he did not have that information, but verified that they would require a use permit for amplified sound which could be subject to revocation if the noise ordinance were repeatedly violated.

Mayor Hallman clarified that the granting of a liquor license is not pertinent to whether or not they can have live performances or amplified sound.

Mr. Anaradian verified that the two applications are separate.

Mayor Hallman stated that assuming this "blog" is correct, it is detailing the kinds of performances that one might want to seek at this place. As far as we know tonight, no use permits have been granted for any kind of live performances.

APPLICANT PRESENTATION

Kurt Havelock stated that this is a year-around Halloween-themed bar, supporting the horror genre. It is a standard Series 12, just like TGI Fridays, only instead of the old knick-knacks, it will have Scooby Doo, Chainsaw Massacre and things like that on the wall. There are 38 different horror-themed rock bands in the Valley and the desire is to get actors from the horror industry to come and promote the business and their shows. The use permit was already in existence and it was transferable and is able to be used for entertainment purposes.

Councilmember Shekerjian asked for the name of the restaurant.

Mr. Havelock responded that it will be "The Haunted Castle."

Councilmember Shekerjian verified that it won't be "Drunkenstein's."

Mr. Havelock confirmed that it will be "The Haunted Castle."

Councilmember Shekerjian added that the "blog" stated that, "...city council wouldn't approve of Drunkenstein's, which will be the actual name above the bar." She asked if they can expect it to be called "The Haunted Castle"?

Mr. Havelock responded that one of the stipulations for the State is that it couldn't have that in the license.

Councilmember Shekerjian stated that was one of the beauties of "blog"ging. All things in life have duality. It's

great to get the word out, but unfortunately sometimes the word gets to the people you might not have wanted to have gotten the word.

Vice Mayor Hutson asked for clarification on the name of the building.

Mr. Havelock responded it would be "The Haunted Castle." The name "Drunkenstein" (rather than "Frankenstein") might appear on a small sign in the corner, but there would be many horror-related items like that.

Mayor Hallman asked the City Attorney for the standards under which the City Council would consider the granting or denial of a liquor license.

Andrew Ching clarified that the City Council's vote tonight is advisory and the ultimate decision to grant or not grant rests with the State Liquor Board. The types of things normally taken into consideration in granting or not granting would be things such as proximity to other licenses, history of the applicant, negative history with prior applications, and things of that nature.

Mayor Hallman stated that the staff report is not unusual in a case like this. He asked for any further staff comments.

There were no other staff comments.

Motion by Councilmember Carter to recommend the approval of Item #31. The motion died for lack of a second.

Mayor Hallman asked for an alternate motion.

Motion by Councilmember Arredondo to recommend the denial of Item #31. Second by Vice Mayor Hutson. Motion passed on a roll call vote, 6-1, with Councilmember Carter voting no.

B. Award of Bids/Contracts

32. Awarded **Contract #2007-187**, a one-year contract with three (3) one-year renewal options to Unique Management Services, Inc., for library collection services.

COMMENTS: (RFP #08-034) Total cost for this contract shall not exceed \$50,000 during the initial contract period.

DOCUMENT NAME: [20071025fst07.pdf](#) **PURCHASES (1004-01)**

33. Awarded **Contract #2007-188**, one-year contracts with two (2) one-year renewal options to Seeds West, UAP Distribution, Inc., and Western Sere for mulch, grass seed, tackifier, and other products.

COMMENTS: (RFP #08-035) Total cost for this contract shall not exceed \$100,000 during the initial contract period.

DOCUMENT NAME: [20071025fslq06.pdf](#) PURCHASES (1004-01)

34. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**

Request approval of a one-year renewal of a contract with Tempe Family YMCA for child care services at the Westside Multigenerational Facility.

Councilmember Mitchell declared a conflict of interest.

Motion by Vice Mayor Hutson for the approval of Item #34. Second by Councilmember Arredondo. Motion passed on a roll call vote, 6-0, with Councilmember Mitchell abstaining.

COMMENTS: (T06-117-01) There is no cost to the City for this contract.

DOCUMENT NAME: [20071025fslq01.pdf](#) PURCHASES (1004-01)

35. Approved a one-year renewal of a contract with Carmanah Technologies Corporation for solar lighting for bus shelters.

COMMENTS: (T07-083-01) Total amount not to exceed \$70,000.

DOCUMENT NAME: [20071025fslq04.pdf](#) PURCHASES (1004-01)

36. Approved a one-year renewal of a contract with Carmanah Technologies Corporation for solar lighting for bus mini-shelters.

COMMENTS: (T06-102-01) Total amount not to exceed \$35,000.

DOCUMENT NAME: [20071025fslq05.pdf](#) PURCHASES (1004-01)

37. Approved a one-year renewal of contracts with Stabilizer Solutions, Inc., Horizon, Arizona Sports Turf, Inc., and Elite Specialty Products, Inc., for ball field surface maintenance products.

COMMENTS: (T07-056-01 through T07-056-04) Total amount not to exceed \$85,000.

DOCUMENT NAME: [20071025fslq03.pdf](#) PURCHASES (1004-01)

38. Approved the utilization of a one-year Regional Public Transit Authority (RPTA) contract with Vehicle Technical Consultants, Inc., for a vehicle fleet maintenance, inspection and compliance program.

COMMENTS: (Contract #VTCI 2005) Total cost of this contract shall not exceed \$87,000 during the initial contract period.

DOCUMENT NAME: [20071025fslq02.pdf](#) PURCHASES (1004-01)

C. Ordinances and Items for Introduction/First Hearing - These items will have two public hearings before final Council action.

- *39. Introduced and held the **first public hearing** to amend Chapter 19 of the Tempe City Code relating to Motor Vehicles and Traffic by amending Section 19-63 relating to speed

limits. The second public hearing is set for November 8, 2007.

DOCUMENT NAME: [20071025PWSS01.pdf](#) TCC CH 19 – MOTOR VEHICLES
AND TRAFFIC (0503-19) ORDINANCE NO. 2007.30.

*40. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**

Introduced and held the first public hearing for a General Plan Density Map Amendment, Zoning Map Amendment and Planned Area Development Overlays for FARMER ARTS DISTRICT located at 280 West University Drive. A second public hearing is scheduled for November 8, 2007.

COMMENTS: (PL070353) (Farmer Arts, LLC, owner; Todd Marshall, applicant) for a General Plan Amendment, Zoning Map Amendment and Planned Area Developments for a mixed-use development consisting of several buildings including residential, retail and public spaces (library) on 8.81 net acres located at 280 West University Drive in the GID, General Industrial District. The request includes the following:

GEP07005 – (Resolution No. 2007.82) General Plan Projected Residential Density Map Amendment from Medium-High Density (up to 25 du/ac) to High Density (greater than 25 du/ac).

ZON07008 – (Ordinance No. 2007.68) Zoning Map Amendment from GID, General Industrial District and TOD to MU-4, Mixed-Use High Density District and TOD.

PAD07020 – Planned Area Development Overlay for Farmer Arts District, Parcel 1 to establish development standards for five (5) buildings consisting of a public library, commercial and mixed-use with live/work up to seven (7) floors, on +/-4.82 acres

PAD07024 – Planned Area Development Overlay for Farmer Arts District, Parcel 2 to establish development standards for four (4) buildings consisting of commercial and mixed-use with live/ work up to 5 floors, all in approx. of building area on +/-3.51 acres

APPLICANT PRESENTATION

Charles Huellmantel stated that he would wait to respond to comments made by the public.

PUBLIC HEARING

Bud Morrison, Tempe, stated that he is supportive of this project. He believes that Tempe Bicycle is the only business being dislocated by this project. Tempe Bicycle began on Mill Avenue in 1976 and was there until 1985, when he lost two properties to condemnation. He purchased a building at University and Farmer on land leased from the railroad. He cleaned up the site and invested over \$500K. In 2002, he purchased that land from the Union Pacific Railroad and it was in escrow when the City intervened and convinced the railroad to sell it to the City. At that time, City staff assured him that all of his investment rights would remain the same as he had enjoyed with the railroad. In 2006, the City requested proposals for development of the property and that request clearly specified that Tempe Bicycle would be given priority treatment. In December of 2006, the developer was selected, and he assured the developer that he would vacate the property with proper advance notice and consideration. The project has been followed by the public and on January 3, 2007, the *Tribune* published an article featuring the dislocation of Tempe Bicycle. In that article, Chris Salomone was quoted as follows: "We will be fair, and I have heard that from our City Council. He has some vested rights." In March 2007, he was told to be off the property by July 1, 2007, and to take his building with him. He did comply with

that request and paid for the demolition of the site. He had a 20,000 sq. ft. building filled with product, plus eight 40' containers behind the building packed with bicycles. That is over 4,000 bicycles and several tons of product and fixtures to move in less than three months. As of tonight, he has lost his half million dollar investment in the building, plus \$48,500 in demolition expense that he has paid, and over \$200K in relocation expenses that he has paid, totaling three-quarters of a million dollars. He has not received one cent from anyone in compensation. The subject property deserves to be developed and he has done everything possible to assist. Perhaps his cooperation has been interpreted as a weakness. The public has been led to believe that Tempe Bicycle received a fair shake on this project and he requested Council's consideration to intervene to see that this does happen.

Mayor Hallman asked when the lease would have expired.

Mr. Morrison responded that the lease was on a thirty-day cancellation on the part of either side.

Mayor Hallman asked if he built the building.

Mr. Morrison responded that the building had been built ten years previously.

Mayor Hallman asked for clarification that he had spent half a million dollars fixing it up.

Mr. Morrison responded that he spent \$300K to buy it and \$300K to make it business-worthy.

Mayor Hallman asked who he bought the building from.

Mr. Morrison responded from the person who built it.

Mayor Hallman asked if he bought it and leased the land from the railroad.

Mr. Morrison responded that it is common with railroad properties. It is typically businesses that move a lot of product on the railroad. They will lease the land, but the businesses will own the improvements.

Mayor Hallman clarified that he spent \$300K to buy the building twenty-one years ago and asked if he depreciated the price of that building.

Mr. Morrison responded that he did. All he is asking for is compensation for his cash expenses of relocation. He has been ignored.

Mayor Hallman clarified that he is saying he spent \$200K relocating and \$40K demolishing the building and that he would be happy with \$240K.

Mr. Morrison responded that is fair.

Mayor Hallman further clarified that it isn't \$750K.

Mr. Morrison responded that is what he invested, but he is only asking for the cash expenses to relocate.

Mayor Hallman clarified that the City is obligated and not the developer. The City owned the land and had the lease that said it could be terminated in 30 days.

Mr. Morrison agreed.

Mayor Hallman clarified that Mr. Morrison's goal is to seek compensation for the relocation and cost of demolition of the building.

APPLICANT PRESENTATION

Charles Huellmantel stated that this is the first of two hearings. Unless the Council has additional questions, he will wait until the second public hearing to make a presentation.

*****FIRST PUBLIC HEARING ONLY – NO VOTE TAKEN**

DOCUMENT NAME: [20071025dssa01.pdf](#) **PLANNED** **DEVELOPMENT**
(0406)

- *41. Introduced and held the **first public hearing** for a General Plan Amendment, Zoning Map Amendment and Planned Area Development Overlay for RESIDENCES AT THE ARTSPARK located at 600 West 1st Street. **A second public hearing is scheduled for November 8, 2007.**

COMMENTS: (PL070166) (Ross Robb, Zacher Homes and Chris Messer, City of Tempe Community Development Department, owners; Michael Rumpelstin, R.S.P. Architects, applicant) consists of a mixed-use development including 472 residential units and 40 live-work units, approximately 1,071,700 s.f. of building, on +/- 5.215 acres. The request includes the following:

GEP07004 – (Resolution No. 2007.71) General Plan Projected Residential Density Map Amendment from Medium-High Density (up to 25 d.u./ac.) to High Density (greater than 25 d.u./ac.)

ZON07009 – (Ordinance No. 2007.66) Zoning Map Amendment from GID, General Industrial District and RSOD, Rio Salado Overlay District to MU-4, Mixed-Use, High Density District and RSOD, Rio Salado Overlay District.

PAD07022 – Planned Area Development Overlay to establish Development Standards for the four buildings on +/- 5.215 acres.

DOCUMENT NAME: [20071025dskko01.pdf](#) **PLANNED** **DEVELOPMENT**
(0406)

- *42. Introduced and held the **first public hearing** for a General Plan Density Map Amendment, Zoning Map Amendment and Planned Area Development Overlay for APACHE ASL TRAILS located at 2428 E. Apache Boulevard. **A second public**

hearing is scheduled for November 8, 2007.

COMMENTS: (PL070371) (Cardinal Capital Management, Inc., owner; Paul Mickelberg, Welman Sperides Mickelberg Architects, applicant) for a General Plan Amendment, Zoning Map Amendment, Planned Area Development for a mixed-use development serving special needs seniors, consisting of approximately 75 apartments and 60 condominiums and approximately 10,000 sq. ft. of retail, office and restaurant space for a total +/-170,000 sq. ft. development on +/-2.27 acres located at 2428 E. Apache, in the CSS Commercial Shopping and Services District. The request includes the following:

GEP07007 (Resolution 2007.86) – General Plan 2030 Density Map Amendment from Medium Density (up to 15 du/ac) to High Density (greater than 25 du/ac)

ZON07010 (Ordinance 2007.73) - Zoning Map Amendment from Commercial Shopping and Service (CSS) to Mixed-Use High Density (MU-4)

PAD07025 - Planned Area Development (PAD) overlay for development standards and a density of 60 du/ac, consisting of 135 residential units and 13,000 sq. ft. of retail, restaurant and office uses within 3-6 floors of mixed-use buildings.

DOCUMENT NAME: [20071025dsdk01.pdf](#) **PLANNED DEVELOPMENT (0406)**

- *43. Introduced and held the **first public hearing** to adopt an ordinance granting an easement to Arizona Public Service to install and maintain the necessary facilities to provide electrical service to the Tempe Transit Center building located at 200 East 5th Street. **The second public hearing is scheduled for November 8, 2007.**

DOCUMENT NAME: [20071025PWCH01.pdf](#) **GRANT OF EASEMENTS (0904-02) ORDINANCE NO. 2007.69**

- *44. Introduced and held the **first public hearing** to adopt an ordinance abandoning a water line easement at 1630 W. Alameda Drive, west of Priest Drive. **The second public hearing is set for November 8, 2007.**

DOCUMENT NAME: [20071025PWCH03.pdf](#) **ABANDONMENT (0901) ORDINANCE NO. 2007.71**

D. Ordinances and Items for Second Hearing/Final Adoption

- *45. Held the **second** public hearing and approved ORDINANCE NO. 2007.70 amending Chapter 14 of the Tempe City Code relating to Fire Prevention and Protection by amending Article II, Division 2, Section 14-41 relating to Fire Code Amendments.

DOCUMENT NAME: [20071025cacc01.pdf](#) **TCC CH 14 - FIRE PREVENTION & PROTECTION (0503-14)**

- *46. Held the **second** public hearing and approved ORDINANCE NO. 2007.72 amending Chapter 26A of the Tempe City Code relating to Procurement.

DOCUMENT NAME: [20071025fsjh01.pdf](#) **TCC CH 26A- PROCUREMENT**

(0503-41)

E. Resolutions

47. DELETED

48. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION**

Approved RESOLUTION NO. 2007.87 authorizing the Mayor to execute **Contract #2007-189**, an Intergovernmental Agreement between the City of Tempe and Salt River Pima-Maricopa Indian Community ("SRPMIC").

Mayor Hallman asked for this item to be removed and tabled because he understood there is at least one other grant that would be part of this process

Andrew Ching clarified that there is nothing about the two particular grants that would preclude voting on them. They are ready. The only issue is that there were additional grant monies from Northern Arizona University that came to the City after the point where the agreement could be amended and put on the agenda under the Open Meeting Law requirements.

Mayor Hallman suggested that Council act on this item and an addendum be brought back to the next meeting on November 8th for the next grant.

Motion by Vice Mayor Hutson to approve Item #48. Second by Councilmember Ellis. Motion passed on a roll call vote, 7-0.

DOCUMENT NAME: [20071025graw01.pdf](#) STATE LEGISLATURE (0107-06) 7

49. Approved RESOLUTION NO. 2007.91 authorizing the Mayor to execute **Contract #2007-190**, a Funding Agreement between the City of Tempe and Community Outreach & Advocacy for Refugees ("COAR").

DOCUMENT NAME: [20071025graw02.pdf](#) STATE LEGISLATURE (0107-06)

50. Approved RESOLUTION NO. 2007.90 authorizing the Mayor to execute **Contract #2007-191**, a Funding Agreement between the City of Tempe and Arizona State University-Indian Legal Program ("ASU-ILP").

DOCUMENT NAME: [20071025graw03.pdf](#) STATE LEGISLATURE (0107-06)

51. Approved RESOLUTION NO. 2007.89 authorizing the Mayor to sign **Contract #2003-119B**, Amendment 1 and **Contract #2003-119C**, Amendment 2 to the Amended and Restated Gila River Indian Community Water Rights Settlement Agreement.

DOCUMENT NAME: [20071025cacc02.pdf](#) WATER RIGHTS (0811-11)

6. PUBLIC APPEARANCES

There were no further public appearances.

7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

- Councilmember Ellis thanked the Police and Fire Departments for heading up the TOPOFF 4 program last week. Tempe received national coverage on that and much was learned. She also thanked the Community Development staff for handling the Affordable Housing Forum last Saturday. Over fifty residents participated, and was the first of many such sessions.
- Councilmember Shekerjian stated that earlier this month she attended America's Promise Conference where Tempe was recognized, once again, as one of the Best 100 Communities for Youth. While it is the Communities in Schools that makes the application on behalf of the City, it includes all the different events that are positive in our community in which the City is involved to promote youth programs. She met the national coordinators for Experience Corps, which is a program run through the City's Community Services Department under the leadership of Tom Canasi. We received many good comments from that organization on how well our Experience Corps was. Last week she attended a reception to highlight one of ASU's 2007 Achievement Award members, Dr. Mark Duplissis, assistant principal at Corona del Sol High School. He has been an active community member. She congratulated him on this award. Last week she also attended Arizona Wind Symphony's first concert in the Tempe Center for the Arts. The symphony is composed of both professional musicians and community members. The next concert will be on November 14th at 7:30 p.m.
- Councilmember Mitchell thanked Shauna Warner and Elizabeth Thomas for their assistance with the annual GAIN event this past Saturday. He also thanked all of the other staff involved in making this event a success. He thanked the Tempe Community Council's Communities in Schools staff, as well as Councilmember Carter and Shekerjian for their help with the application to honor Tempe as one of the 100 Best Communities to Raise Youth.
- Councilmember Carter announced that ASU Homecoming will be held this weekend. She also wished Vice Mayor Hutson a very happy birthday.

Meeting adjourned at 8:30 p.m.

I, Jan Hort, the duly-appointed City Clerk of the City of Tempe, Maricopa County, Arizona, do hereby certify the above to be the minutes of the Formal City Council meeting of October 25, 2007, by the Tempe City Council, Tempe, Arizona.

Hugh Hallman, Mayor

ATTEST:

Jan Hort, City Clerk

Dated this _____ day of _____, 2007.